

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Tyrice Hill,

Plaintiff,

v.

Annette Chambers-Smith, et al.,

Defendants.

Case No: 2:22-cv-3742

Judge Graham

Magistrate Judge Gentry

ORDER

This matter is before the court on the Magistrate Judge’s February 05, 2024, Report and Recommendation (ECF No. 34), which issued recommendations as to (1) the initial screen of Plaintiff’s Third Amended Complaint (ECF No. 24), (2) Plaintiff’s motion for preliminary injunction (ECF No. 2), and (3) Defendant Judge Lindsay Navarre’s motion to dismiss for failure to state a claim. No objections have been filed.

As detailed in the Report and Recommendation, Plaintiff’s Third Amended Complaint brings a civil rights action under 42 U.S.C. § 1983. However, the allegations therein attempt to revisit the “well-trodden ground” of Plaintiff’s prolific attempts at post-conviction relief. ECF No. 34, 4. As such, the Magistrate Judge recommends that the Third Amended Complaint be dismissed “to the extent that it can be construed as setting forth any claim challenging Plaintiff’s state-court criminal conviction.” *Id.* Furthermore, the Magistrate Judge recommends that the claims against Defendants Kral and Bowman-English be dismissed because the claims allege events in 2004 and are therefore time-barred by the applicable two-year statute of limitations. *Id.* at 5. As to Defendant Judge Lindsay Navarre’s motion to dismiss, the Magistrate Judge recommends that the motion be granted on the basis of judicial immunity.¹ *Id.* However, the Magistrate Judge recommends that Plaintiff’s access-to-courts claims against Defendant Chambers-Smith be permitted to proceed to further development. Finally, the Magistrate Judge recommends that Plaintiff’s motion for preliminary injunction be denied because the Court is without power to grant the injunctive relief

¹ The Report and Recommendation observes that judicial immunity also provides an independent basis to dismiss the claims against Defendant Bowman-English, citing *Foster v. Walsh*, 864 F.2d 416 (6th Cir. 1988).

sought. Specifically, the Magistrate Judge notes that the vehicle for the relief sought by Plaintiff is a habeas action brought under 28 U.S.C. § 2254, whereas the instant action is brought as a civil rights action under 42 U.S.C. § 1983.

Noting that no objections have been filed and that the time for filing such objections has expired, the Court **ADOPTS** the Magistrate Judge's well-reasoned Report and Recommendation (ECF No. 34). Defendant Judge Lindsay Navarre's motion to dismiss is hereby **GRANTED**; therefore, Plaintiff's claims against Defendant Judge Navarre are hereby **DISMISSED with prejudice**. The remainder of Plaintiff's Third Amended Complaint is hereby **DISMISSED without prejudice**, except as to Plaintiff's access-to-courts claims against Defendant Chambers-Smith, which shall proceed to further development. Finally, Plaintiff's motion for preliminary injunction is **DENIED**.

IT IS SO ORDERED

DATE: May 23, 2024

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge